

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROBERT TUTLER,

Plaintiff,

v.

N.J. DEPT. OF CORRECTIONS, et al.,

Defendants.

Civil No. 03-6142 (RBK)

ORDER

For the reasons expressed in the Opinion filed herewith,

IT IS on this 21st day of June, 2005,

ORDERED that Plaintiff's application to proceed in forma pauperis is hereby granted and the Clerk shall file the Complaint without prepayment of the filing fee; and it is further

ORDERED that the Complaint is DISMISSED for failure to state a claim upon which relief may be granted; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall forward a copy of this Order by regular mail to the Attorney General of the State of New Jersey and the warden of Bayside State Prison; and it is further

ORDERED that Plaintiff is assessed a filing fee of \$250.00 which shall be deducted from his prison account pursuant to 28 U.S.C. § 1915(b)(2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(1)(A), Plaintiff is assessed an initial partial filing fee equal to 20% of the average monthly deposits to the Plaintiff's prison account for the six month period immediately preceding the filing of the Complaint; when funds exist, the

shall deduct said initial fee from Plaintiff's prison account and forward it to the Clerk; and it is finally

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(2), until the \$250.00 filing fee is paid, each subsequent month that the amount in Plaintiff's prison account exceeds \$10.00, the shall assess, deduct from the Plaintiff's account, and forward to the Clerk payments equal to 20% of the preceding month's income credited to Plaintiff's prison account, with each payment referencing the docket number of this action.

s/Robert B. Kugler

ROBERT B. KUGLER, U.S.D.J.